

ISSUE I

ANSWER

ISSUE II

ANSWER

FACTS

DISCUSSION

The Committee concludes that the issues presented involve the provisions of SCR 60.05(3)(c) and 60.03(2).

A. SCR 60.05

SCR 60.05(3)(c)2.a. states that:

2. A judge, in any capacity:
 - a. May assist . . . [a nonprofit charitable] organization in planning fund-raising activities . . . but may not personally participate in the solicitation of funds or other fund-raising activities,

The terms "funds" and "fund-raising" are not defined by the Code. The American Heritage Dictionary defines "fund" as:

1. a source of supply; stock;
2. a sum of money or other resources set aside for a specific purpose.

The Code defines "gift" as:

. . . the payment or receipt of anything of value without valuable consideration.
SCR 60.01(7)

The proposed activities; i.e., requests for left-over food and redecorating supplies, do not involve a request by the judge for money. However, all of the activities involve a personal solicitation by the judge for "resources set aside for a specific purpose" and a receipt of something "of value without valuable consideration." In addition, the Committee concludes that "funds" and "fund-raising" include contributions in kind.

SCR 60.05(3)(c)2.d. states that:

2. A judge, in any capacity:
 - d. May not use or permit the use of the prestige of judicial office for fund-raising

In making the appeals for redecorating materials, the judge acknowledges that it will be necessary to disclose the fact that he or she is a judge. Such disclosure would be necessary to explain to the potential contributor the reasons why the contributions are requested and to prompt a favorable response. Therefore, participation in this activity would constitute use of the prestige of judicial office for fund-raising.

For the reasons presented above, the Committee concludes that the proposed activities are proscribed by SCR 60.05(3)(c).

B. SCR 60.03

SCR 60.03(2) states, in part, that:

A judge may not lend the prestige of judicial office to advance the private interests of the judge or of others or convey or permit others to convey the impression that they are in a special position to influence the judge. . . .

The personal solicitation by the judge in seeking redecorating materials would involve disclosure of judicial office. There are two apparent dangers: (1) the prospective donor might feel compelled to contribute because of fear of incurring judicial displeasure, and (2) by making a donation, the contributor might feel that he or she is in a position to influence the judge in some future endeavor. For those reasons, the Committee concludes that the proposed activity is proscribed by SCR 60.03(2).

CONCLUSION

The Committee concludes that a judge may not personally participate in soliciting left-over food for shelters, community meal programs and food pantries from restaurants located in the courthouse and state office buildings.

The Committee also concludes that a judge may not personally participate in soliciting non-monetary donations for a county group home for girls from local businesses.

APPLICABILITY

This opinion is advisory only, is based on the specific facts and questions submitted by the petitioner to the Judicial Conduct Advisory Committee, and is limited to questions arising under the Supreme Court Rules, Chapter 60 -- Code of Judicial Conduct. This opinion is not binding upon the Wisconsin Judicial Commission or the Supreme Court in the exercise of their judicial discipline responsibilities. This opinion does not purport to address provisions of the Code of Ethics for Public Officials and Employees, subchapter III of Ch. 19 of the statutes.

I hereby certify that this is Formal Opinion No. 98-5 issued by the Judicial Conduct Advisory Committee for the State of Wisconsin this 20th day of April, 1998.

Thomas H. Barland
Chair